

Appl. No. 10/045,724
Response dated September 6, 2007 filed with RCE
Reply to Office Action of June 6, 2007

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Remarks/Arguments

Claims 1-22 are pending and stand rejected on varying grounds under § 103(a).

Claims 1, 11, 18, and 21 have been amended to further clarify the invention. No new matter has been added by any amendment.

In view of the comments below and the accompanying RCE, Applicant respectfully requests that the Examiner reconsider the present application including claims 1-22 and withdraw the rejection of these claims.

a) Claims 1-3, 5, 8, 9, 11-13, 15 and 17-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Escobosa et al (US Pub. No. 2003/0151538) in view of Allport (US Patent No. 6,104,334).

Claims 1, 11, 18, and 21 are independent claims with the other cited claims dependent on the closest lower numbered independent claim.

With reference to claim 1, the Examiner maintains that "Escobosa discloses a method for command brokering on behalf of an intelligent device (i.e. home theater equipment) (e.g. abstract) which discloses:

defining in a client device a desired function to be performed by the intelligent device (i.e. various operations), the desired function being only a portion of all functions that the intelligent device is capable of performing (i.e. the system only downloads IR sequences to

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perform various operations such as channel tuning to a particular TV station, setting up various equipment, etc.) (par.65); “

Applicant respectfully submits that the Examiner has mis-characterized Escobosa et al. Escobosa et al [0065] teaches downloading instructions (sequences of pre-programmed instructions to perform various operations or access codes or other applications [for a user to perform]) and not device IR command codes [0065, line 3] (claimed control instructions which are forwarded to the intelligent device).

The Examiner further maintains that Escobosa et al shows:

“identifying the intelligent device and the desired function to a web site (i.e. supplier site 30) having control instructions for the intelligent device by the client device through a network (Figure 4a; par.66); “

Applicant concedes that Escobosa et al [0066] at least suggests identifying the intelligent device albeit via a computer and not the WIAD and not via a wireless communication network. There is no suggestion in Escobosa et al [0066] about identifying the desired function, the setup instructions are simply and gratuitously provided after logging into a web site.

Furthermore, Applicant respectfully notes that Escobosa et al. [0066] teaches downloading the code data (IR command code set for the home theatre) and additionally and thereafter speaks to downloading pre-programmed instructions for a user to utilize in setting up the home theatre. Escobosa et al states that “not only is the code data (code set) for the identified device downloaded into his remote” but also instructions and remote control sequences to facilitate setup and adjustment of the system. Applicant respectfully and again submits that

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Escobosa et al [0066] merely suggests that a user is being provided instructions as well as remote control sequences to execute (buttons to push) pursuant to setting up the system.

The Examiner further maintains that Escobosa et al shows:

"returning to the client device from the web site, a subset of the control instructions (i.e. sequences) for controlling the intelligent device to perform the desired function (ie. user access the web site to download sequences of pre-programmed instructions to perform various operations (par.65-66);"

Applicant with reference to the above discussions respectfully submits that the sequences referred to in Escobosa et al. [0065], [0066] are in fact remote control sequences (remote control buttons for a user to activate in some order) and have nothing to do with returning a subset of control instructions for controlling the intelligent device to perform the desired function as claimed. These are simply not control instructions to forward from the WIAD to the device to effect the desired function as claimed.

The Examiner further maintains that Escobosa et al teaches "forwarding the subset of the control instructions from the remote control to the intelligent device to effect the desired function (i.e. balancing the surround speakers and setting equalizer values can only be done if the commands are sent to the intelligent device) (par.65-67).

Applicant concedes that doing something from the remote control requires that some IR codes (in Escobosa et al speak, or some control instructions in the claim language) be sent to the home theatre. However, Applicant respectfully submits that nothing in Escobosa et al shows

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downloading only a subset of the control instructions and then forwarding this subset of the control instructions from the WIAD to the intelligent device. Escobosa et al simply does not teach downloading a subset of IR commands (control instructions).

With reference to Escobosa et al [0067] and FIG. 16, Applicant notes that a movie may be selected and, responsive to the selection, an icon indicative thereof is downloaded and placed on the remote controller screen. Assuming that watching the movie amounts to touching the icon, it reasonably follows that touching the icon must send a sequence of IR codes (subset of control instructions) to the home theatre to effect this response. Even if these assumptions are accurate, there is still nothing in Escobosa et al that states or may be reasonably construed to show that this set of IR codes was downloaded along with the icon when the movie was selected. Escobosa et al merely states that the icon and a numeric code were downloaded. It is just as reasonable to assume that the IR codes to effect watching the movie were locally associated with the icon as it is to assume they were downloaded with the icon. Either assumption in the end is the product of conjecture or speculation and not the teaching of Escobosa et al.

The Examiner concedes that "Escobosa does not disclose that the defining is done using the wireless internet access device (i.e the remote control)." But maintains that in "In analogous art, Allport, discloses another method for command brokering for a device which discloses defining on a wireless internet access device a desired function to be performed on the device (i.e. the user is capable of modifying the look-and-feel of the remote control, modify button functionality, etc.) (Figure 1, ref. 80; e.g. abstract; col. 5, line 50 to col. 6, line 13; col. 23, line 59 to .col. 24, line 31)."

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Assuming *arguendo* that Allport may be reasonably construed as the Examiner indicates, this does not supply the claimed feature that the Examiner concedes is missing from Escobosa et al. The claimed feature is defining in a WIAD a desired function to be performed by the intelligent device; not a function to be performed by/at the WIAD. Changing the look and feel of the remote is affecting a function in the remote and not a desired function in the intelligent device, and thus on its face Allport does not show or suggest the claimed features conceded to be missing from Escobosa et al.

Furthermore, Applicant has amended the independent claims to note in varying scope that the WIAD does not have a complete set of the control instructions for the intelligent device (claim 1) or is capable of controlling only a portion of all functions at the intelligent device (claim 11) or analogous features in claims 18, 21. Clearly the remote control of Escobosa et al does have a complete set of IR codes (code set is downloaded [0066], lines 5-6).

Thus and in view of the discussions above and clear indication that Escobosa et al and Allport do not teach all features of claims 1, 11, 18, or 21 or, at least by virtue of dependency, claims 2-3, 5, 8, 9, 12-13, 15, 17, 19-20, and 22, Applicant respectfully submits that this combination of references does not support a rejection of any of these claims. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 1-3, 5, 8, 9, 11-13, 15 and 17-22 under 35 U.S.C. 103(a) as being unpatentable over Escobosa et al (US Pub. No. 2003/0151538) in view of Allport (US Patent No. 6,104,334).

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b) Claims 4, 6, 7, 14, and 16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Escobosa et al and Allport in view of Maymudes (US Patent No. 6,748,276).

Each of these claims is dependent on either claim 1 or claim 11. Claim 1 and claim 11 are allowable over this combination of references and thus, at least by virtue of dependency, these claims are likewise allowable.

Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 4, 6, 7, 14 and 16 under 35 U.S.C. 103(a) as being unpatentable over Escobosa and Allport and further in view of Maymudes (US Patent No. 6,748,278).

c) Claim 10 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Escobosa and Allport in view of Baun et al (US Pub. No. 2003/0197930).

Claim 10 is dependent on claim 1. Claim 1 is allowable over this combination of references. Thus claim 10, at least by virtue of dependency, is similarly allowable.

Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claim 10 under 35 U.S.C. 103(a) as being unpatentable over Escobosa and Allport and further in view of Baun et al. (US Pub. No. 2003/0197930).

Accordingly, Applicant respectfully submits that the claims, as amended, clearly and patentably distinguish over the cited references of record and as such are to be deemed allowable.

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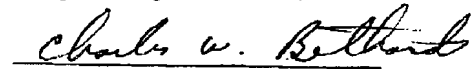
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Such allowance is hereby earnestly and respectfully solicited at an early date. Particularly in view of the length of pendency for the present application, if the Examiner has any suggestions or comments or questions, calls are welcomed at the phone number below.

Although it is not anticipated that any fees are due or payable other than the separately noted RCE fee, since this response is being timely filed within the allowed 3 month time period and no other fees appear to be due or payable, the Commissioner is hereby authorized to charge any fees that may be required or credit any overpayments to Deposit Account No. 50-3435.

Respectfully submitted,



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